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# COUNTY ADVISORY BULLETIN

CAB

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Phone: 614-221-5627 • Fax: 614-221-6986 • [www.ccao.org](http://www.ccao.org)

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Bulletin 2018-3

August 2018

## **MODIFICATION OF SOME CERTIFIED MAIL REQUIREMENTS**

## **ELECTED OFFICIALS PUBLIC RECORDS TRAINING**

## **EXPANSION OF AGENCY REPRESENTATION BY PROSECUTOR**

**APPLICABLE LEGISLATION:** Sub. HB 34 (132nd General Assembly)

**REVISED CODE SECTIONS:** Amends ORC Sections 9.312, 109.43, 124.327, 128.07, 149.30, 149.43, 303.14, 307.204, 309.09, 340.02, 343.01, 505.266, 519.14, 713.21, 902.04, 929.02, 931.03, 940.20, 3517.01, 3517.11, 4301.39, 5713.082, 5713.31, 5713.32, 5715.19, 5715.20, 5717.01, 5721.30, 5721.31, 5721.32, 5721.33, and 5727.75 and **Enacts** ORC Sections 308.061, 4582.021, and 4582.23

**LEAD SPONSORS:** Representatives Steve Hambley and Scott Ryan, Senator Bill Coley

**SENATE COSPONSORS:** Senators Beagle, Dolan, Hackett, LaRose, Peterson, Uecker, Yuko

**HOUSE COSPONSORS:** Representatives Wiggam, Greenspan, Blessing, Hill, Becker, Riedel, Goodman, Bishoff, Arndt, Anielski, Antani, Antonio, Ashford, Boyd, Carfagna, Conditt, Craig, Dever, Edwards, Faber, Fedor, Ginter, Green, Henne, Holmes, Howse, Huffman, Kick, Koehler, Landis, Lanese, LaTourette, Leland, Lepore-Hagan, Lipps, McColley, Miller, O'Brien, Patterson, Patton, Pelanda, Perales, Reineke, Rogers, Romanchuk, Scherer, Seitz, Sheehy, Slaby, Smith, K., Smith, R., Stein, Sweeney, Thompson, Vitale, West, Young

**EFFECTIVE DATE:** November 2, 2018

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## **BACKGROUND**

HB 34 was initially introduced to allow certain state agencies, local governments, and other boards, commissions, and officers to deliver certain notices by ordinary mail and email instead of by certified mail. The bill was amended in the Senate to include the provisions about public

records training for newly elected, but not yet serving officials and the ability for county prosecutors to represent a port authority, regional port authority or regional planning commission in addition to the other non-county government agencies they are authorized by statute to represent.

**MODIFICATION OF CERTAIN CERTIFIED MAIL REQUIREMENTS**

HB 34 provides that certain required official government notices may be given by means of a combination of ordinary mail and email ("internet identifier of record," which the bill defines as "an electronic mail address, or any other designation used for self-identification or routing in internet communication or posting").

In most cases, the current law authorizes only delivery by certified mail. With certain exceptions, the bill provides, as an alternative, that notice may be sent by ordinary mail and Internet identifier of record. The legislation was sought by CCAO as a cost saving measure recognizing both that the current cost of sending a one ounce envelope via certified mail ranges from \$4.72 (with an electronic receipt confirmation) to \$6.67 (with a paper receipt conformation) and that a large percentage of required certified mail deliveries are returned unclaimed or undeliverable in a typical year.

<b>Notice requirements modified by HB 34 Utilizing email and ordinary mail permitted</b>
<b>O.R.C. 303.14</b> - County board of zoning appeals must notify the holder of an authorized variance or conditional zoning certificate granted for the extraction of minerals of the board's intent to revoke the variance or certificate upon violation of a condition thereof and of the holder's right to a hearing
<b>O.R.C. 307.204</b> - Person must notify board of county commissioners of proposed construction or expansion of concentrated animal feeding facility
<b>O.R.C. 307.204</b> - Board of county commissioners must notify a person who does not comply with the board's recommendations regarding the person's concentrated animal feeding facility of the board's intent to initiate mediation if the person remains out of compliance with the recommendations
<b>O.R.C. 340.02</b> - County board of alcohol, drug addiction, and mental health services that experiences a vacancy must notify the vacant member's original appointment authority of the vacancy
<b>O.R.C. 343.01</b> - The Director of Environmental Protection may issue an order to require a county or joint solid waste management district to receive out-of- district waste
<b>O.R.C. 505.266</b> - Person must notify board of township trustees of proposed construction or expansion of concentrated animal feeding facility
<b>O.R.C. 505.266</b> - Board of township trustees must notify a person who does not comply with the board's recommendations regarding the person's concentrated animal feeding facility of the board's intent to initiate mediation if the person remains out of compliance with the recommendations

<b>O.R.C. 519.14</b> - Township board of zoning appeals must notify the holder of an authorized variance or conditional zoning certificate granted for the extraction of minerals of the board's intent to revoke the variance or certificate upon violation of a condition thereof and of the holder's right to a hearing
<b>O.R.C. 902.04</b> - County or municipal corporation issuing authority that intends to issue certain bonds must send notice to the Director of Agriculture and the Director of Development providing certain information about the nature of the bonds
<b>O.R.C. 929.02</b> - County auditor must notify an owner of agricultural land of the denial of the owner's application to place the land in an agricultural district and must notify eligible owner of land in an agricultural district who fails to file renewal application
<b>O.R.C. 931.03</b> - Board of township trustees or board of county commissioners that determines an application to enroll land into an agricultural security area is incorrect or incomplete, or that approves or rejects an application, must notify the applicant
<b>O.R.C. 940.20</b> - Supervisors of a soil and water conservation district must send notice to landowners that are adjacent to a proposed improvement
<b>O.R.C. 3517.01 and O.R.C. 3517.11</b> - Secretary of State and county board of elections must notify certain candidates for public office about campaign finance statement filing
<b>O.R.C. 4301.39</b> - County board of elections must send notice of a recount or contest for a local option election regarding certain liquor-related issues to the Superintendent of Liquor Control; board also must send notice of a final determination of a recount or contest to the Superintendent and the Liquor Control Commission
<b>O.R.C. 5713.082</b> - County auditor must send notice to the owner of property that is reentered to the tax list
<b>O.R.C. 5713.31 and O.R.C. 5713.32</b> - County auditor must notify an owner of agricultural land who fails to file an application for land valuation for property tax purposes; must return an incorrect or incomplete application for valuation to the applicant; and must notify an unsuccessful applicant for a determination that land is devoted exclusively to agricultural use
<b>O.R.C. 5715.19</b> - County board of revision must notify a complainant and the applicable property owner of the time and place of a hearing for the complaint regarding the property's valuation
<b>O.R.C. 5715.20</b> - County board of revision must notify a complainant and property owner of its decision regarding a valuation complaint
<b>O.R.C. 5717.01</b> - County board of revision must notify all persons who were parties to a property valuation hearing that the board's decision has been appealed
<b>O.R.C. 5721.30 and O.R.C. 5721.31</b> - County treasurer must send notice to the owner of record or all interested parties that a tax certificate is to be sold
<b>O.R.C. 5721.32</b> - County treasurer must send notice to the owner of record or all interested parties that a tax certificate has been sold via public auction
<b>O.R.C. 5721.33</b> - County treasurer must send notice to the owner of record or all interested parties that a tax certificate has been sold via negotiated sale or transfer

**O.R.C. 5727.75** - Board of county commissioners that adopts a resolution to approve or reject an application for certification as a qualified energy project must send copies of the resolution to the owner of the facility seeking certification and to the Director of Development Services

## **PUBLIC RECORDS TRAINING FOR PUBLIC OFFICIALS**

HB 34 makes it easier for newly elected individuals to complete their public records training requirement. The bill allows a future official, who has been elected to a local or statewide non-judicial office and issued a certificate of election but not yet taken office, to complete the required public records training for elected officials conducted by the Attorney General before the person takes office. However, a future official may not send a designee to the training in the official's place, as an elected official who has taken office may do under continuing law.

The requirements concerning registration fees for future officials remain the same as for current elected officials and their designees. The Attorney General must not charge a future official any fee for attending the training, but if another public or private entity offers the training, the entity may charge a reasonable registration fee. A future official's public office may use public funds to pay the fee.

## **COUNTY PROSECUTOR AS LEGAL ADVISOR TO GOVERNMENT AGENCIES**

The bill expands the current authority allowing county prosecutors to represent governmental bodies that are specifically county agencies. The county prosecutor may, within the prosecutor's discretion, and with the approval of the board of county commissioners, may now decide to enter into a contract with a port authority, regional port authority, or regional planning commission to be its legal adviser. Correspondingly, the bill authorizes the board of directors of a port authority, the board of trustees of a regional airport authority, or a regional planning commission to contract with the county prosecutor to obtain legal services from that office.

The contract may provide for the payment of a fee to the county prosecutor for legal services agreed to under the contract. All money received under the contract must be deposited into the county prosecutor's legal services fund. Moneys in that fund may be appropriated only to the prosecutor's office for the purpose of providing legal services under the contract.

If the port authority, regional airport authority, or regional planning commission covers territory or a region in more than one county, the board of trustees, board of directors, or commission may choose the prosecutor with whom it chooses to enter into a contract, with the approval of the board of county commissioners of that county.